

APPEAL NO. 032762
FILED DECEMBER 1, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 6, 2003. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits for the 15th compensable quarter. The claimant appeals this determination. The respondent (carrier) asserts that the claimant's appeal was not timely filed and, therefore, should not be given consideration.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer have become final pursuant to Section 410.169.

Pursuant to Section 410.202(a), for an appeal to be considered timely, it must be filed or mailed within 15 days of the date of receipt of the hearing officer's decision. Section 410.202 was amended effective June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in the Texas Government Code from the computation of time in which to file an appeal. Section 410.202(d). Texas Workers' Compensation Commission (Commission) records indicate that the hearing officer's decision and order was mailed to the claimant on August 18, 2003, and was deemed received by him on August 23, 2003. See Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)). Under Section 410.202(a), fifteen days from claimant's deemed date of receipt of the decision would have been September 16, 2003. Claimant's appeal is postmarked October 14 and was received by the Commission on October 21, 2003. Therefore, the appeal was not timely filed. The claimant states in his appeal that he did not receive the decision until August 25, 2003; however, this unexplained statement is insufficient to extend the period for filing a timely appeal (Texas Workers' Compensation Commission Appeal No. 94631, decided June 29, 1994, and Texas Workers' Compensation Commission Appeal No. 960346, decided March 29, 1996). Furthermore, even if timeliness were calculated based upon the claimant's stated date of receipt, the appeal would still be untimely.

Because the claimant's appeal was not timely filed, the hearing officer's decision and order have become final pursuant to Section 410.169 and Rule 142.16(f).

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Chris Cowan
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge